

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

RICHARD MARTIN, an individual,

Plaintiff,

vs.

Civil Action No. 1:13-cv-04242

JOBO'S, INC., d/b/a BJ Roosters, a
corporation, and ROBERT HAMILL
and JOHN MOLINARI, individuals,

Defendants.

PLAINTIFF'S RESPONSE TO ORDER TO SHOW CAUSE

COMES NOW, Richard Martin, Plaintiff in the above-styled action ("Plaintiff"), by and through the undersigned counsel of record, and respectfully responds to the Court's Order to Show Cause, as follows:

Discovery has been conducted and completed in this case;

On October 8, 2014, this Court stayed the action pending mediation. This case, and its companion case *Charles Allen v. Jobo's, Inc., et al.*, Civil Action Number 1:13-CV-3768-RWS were mediated on August 26th, 2014. In November 2014, counsel for Plaintiff in *Allen* filed for summary judgment. Plaintiff timely filed its response to that Motion on December 16, 2014. The issues and Defendants in both cases are substantially identical, with the exception of the fact

that Mr. Martin was employed as a bartender for much of his tenure with Defendants.

It is the belief of Plaintiff's counsel that this Court's decision in *Allen* will be dispositive of this matter and that if Defendants prevail this matter will be dismissed. If Plaintiffs prevail then this matter will be settled.

On April 23, 2015, the Court ordered the parties to show cause why the parties have not filed a status report or a proposed scheduling order.

The parties have not filed a status report or a proposed scheduling order in this matter, but they have been working diligently to advance the case. This Court has not yet ruled on the pending Motion for Summary Judgment in *Charles Allen v. Jobo's, Inc., et al.*, Civil Action Number 1:13-CV-3768-RWS, which was submitted December 16, 2014. A ruling in *Allen* will be largely determinative of the issues of fact and law in this case, and Plaintiff's counsel believes that upon such ruling, both cases will be resolved at the same time. Counsel for Plaintiffs and Defendants have treated these cases as related and substantially identical since their inception. That being said, Plaintiff's counsel will be more than willing to confer with defense counsel in this matter and provide this Court with a Joint Preliminary Report and Discovery Plan detailing the discovery that has been done in this case and in *Allen* to this point.

Plaintiff's counsel has diligently conducted discovery in this matter, attempted to settle this case through mediation, as both cases have substantially similar facts, causes of action and identical Defendants. Plaintiff requests that this case not be Dismissed with prejudice and that the case continue to be stayed until such time as this Court renders a ruling in *Allen*.

Respectfully submitted, this 7th day of May, 2015.

/s/W. Anthony Collins, Jr.
W. Anthony Collins, Jr.
Georgia Bar No. 141712

SMITH COLLINS & FLETCHER, P.A.
8565 Dunwoody Place
Building 15, Suite B
Atlanta, Georgia 30350
(678) 245-6785
Anthony@SCandF.com

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

RICHARD MARTIN,

Plaintiff,

vs.

Civil Action No. 1:13-cv-4242-RLV

**JOBO'S, INC., d/b/a BJ Roosters, a
corporation, and ROBERT
HAMILL and JOHN MOLINARI,
individuals,**

Defendants.

CERTIFICATE OF SERVICE

I hereby certify that on this day, I submitted electronically via the CM/ECF system **Plaintiff's Response to Order to Show Cause** which will automatically notify via email the following attorneys of record:

J. Larry Stine
WIMBERLY, LAWSON, STECKEL, SCHNEIDER & STINE, P.C.
3400 Peachtree Road, N.E., Suite 400
Atlanta, Georgia 30326

Dated: May 7, 2015.

SMITH COLLINS & FLETCHER, P.A.
8565 Dunwoody Place
Building 15, Suite B
Atlanta, GA 30350
(678) 245-6785
Anthony@SCandF.com

/s/ W. Anthony Collins, Jr
W. Anthony Collins, Jr.
Ga. Bar No. 141712

CERTIFICATE OF COMPLIANCE

Pursuant to Local Rule 7.1(D), the undersigned counsel for Plaintiff hereby certifies that the foregoing has been prepared in Times New Roman font, 14-point type, which is one of the font and point selections approved by the Court in Local Rule 5.1(B).